

ATKINS DYER.

JANUARY 30, 1855.—Laid upon the table, and ordered to be printed.

Mr. AARON HARLAN, from the Committee on Commerce, made the following

REPORT.

*The Committee on Commerce, to whom was referred the petition of Atkins Dyer, have had the same under consideration, and now report:*

That the facts in the case are fully stated in the petition, and they show that the petitioner was, on the 15th October, 1846, master and owner of the brig "Germ," which, with an American crew, cleared from the port of Philadelphia for Kingston, in the island of Jamaica, and, as he says, from thence to a port in the West Indies, and back to a final port in the United States.

On arriving at Kingston, in Jamaica, he changed his voyage, and took a charter for the Spanish main. His crew was American, and they, by reason of this change in the voyage, claimed their discharge, and to which he gave his consent.

The American consul at Kingston gave him a certificate that a crew of American seamen could not be obtained, and he took on board a crew consisting of two Americans and three foreigners, bound for the port of San Juan de Nicaragua. At this last port two of this crew ran away, and left him a crew of only five, including master and officers; and as there was no American consul at this port, and as no seamen could be procured, he was compelled to return to the port of New York with this crew of three Americans and two foreigners.

In the port of New York, tonnage duties were demanded and paid, to the amount of eighty-five dollars and seventy-five cents. These duties were claimed for the reason that two-thirds of the crew were not Americans, as required by law, in order to entitle the petitioner to an exemption from tonnage duties.

The seventh section of the act of March 1, 1817, vol. 3, page 352, of United States Statutes at Large, provides "that the abatements of duty allowed by this act in the case of vessels having a certain proportion of seamen who are American citizens, or persons not the subjects of any foreign power, shall be allowed only in the case of vessels having such proportion of American seamen during their whole voyage, unless in case of sickness, death, or desertion, or where the whole or part of the crew shall have been taken prisoners in the voyage."

None of the exceptions in this act specified cover the case of a voluntary change of voyage and discharge of crew, and for this reason the committee are of opinion that the petitioner is not entitled to the remission of duty which he claims, and they ask to be discharged from the further consideration of the subject.

